

### **REMARKS/ARGUMENTS**

Preliminarily, as a matter of clarifying the record, it is presumed that claim 2, not claim 6, stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite, as it is claim 2 that is discussed in the ensuing paragraphs below the heading on page 2 of the present Official Action.

Reconsideration and allowance of the present application based on the following remarks are respectfully requested. Claims 1-2, 20, 28, 31, 33, and 46 have been amended. Claims 5-12, 14-19, 22-24, 29, 35, 38, 47-49, 51, and 53-54 have been amended as a matter of housekeeping to clarify proper antecedent basis. Claims 55-56 have been cancelled. Support for all amendments and new claims can be found throughout the specification. No new matter has been added as a consequence of these amendments.

Claims 1, 6 [sic], 46-48 and 51-54 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The corresponding claim amendments have addressed these rejection and it is submitted that all of the pending claims are in full compliance with 35 U.S.C. §112.

Claims 1-2, 6, 47-48, and 53-54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,952,645 ("Mulhaupt") in view of U.S. Patent No. 3,576,903 ("Groff"). Claims 5, 7-12, 14-24, 26, 28-31, 33, 35-40, 45-46, 49-52, and 55-56 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mulhaupt. Claim 27 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Mulhaupt in view of European Application EP 1 026 218 ("Welke").

Both the Examiner and the Applicants readily recognize that Mulhaupt does not teach or suggest impact modifiers formed from a polyamide, a polyurethane, a polyesteramide, a copolymer formed from a polyester and polyamide, or a polyurethane formed from a polyester. (See present Official Action at page 4). Furthermore, we both also recognize that Mulhaupt does not teach or suggest compositions that are "capable of phase separating upon curing to form phase-separated domains and/or particles comprising the impact modifier." (See present Official Action at page 3).

In addition, Applicants submit that Mulhaupt does not teach the polyester impact modifiers of the pending claims. It is useful to note that while a broad and vast array of polymers are discussed within Mulhaupt – all having many, many variations for each variable – Mulhaupt does not teach or suggest to one skilled in the art to form the polyester impact modifier as presently claimed. Specifically, the particular polyesters as presently claimed, are formed from at least one dimer fatty acid and/or dimer fatty diol, and a polyol component that consists of residues derived from either polyols having a molecular weight of between 50 and 200, and/or fatty dimer diols.

To help the Examiner fully appreciate this point, we ask that the Examiner highlight the portions in Mulhaupt that direct the skilled artisan to construct the particular polyesters used to form the specific impact modifiers of the pending claims, without the guidance of the instant application. The point being, that the pending obviousness rejections are nothing more than the result of a hindsight reconstruction.

Applicants submit that Groff fails to teach epoxy resin compositions that comprise the impact modifiers of the pending claims for the reasons as noted above. Similarly, Welke does not overcome the above-noted deficiencies of Mulhaupt.

For at least the above-noted reasons, Applicants submit that the Examiner has failed to present a *prima facie* case of obviousness. Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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